

Howrey Docket No.02578.0006.00US00

REMARKS

Claims 1-28, 30-43, and 45 are in the application. Claims 1, 6, 18, 25, 30, 40-43, 45, and 47 are amended in this Response.

As a preliminary manner, Applicant would like to thank the Examiner for the courtesies extended in the personal interview conducted on July 10, 2003. At the interview, Applicant asserted several distinctions over the combination of Ledger and the ImSpector cited by the Examiner as prior art, including: 1) focus on patterned films; and 2) two-step procedure for taking measurements in which measurement locations are located in the first step, and the measurements taken at these locations in the second step. Through this Response, these two distinctions have been added to independent claims 1, 6, 18, 25, 40, 41, 42, and 43, and are incorporated into the remaining claims through their direct or indirect dependence on the foregoing independent claims.

As asserted at the interview, Applicant respectfully submits that each of these distinctions is alone sufficient to impart patentability to the claims over the Ledger/ImSpector prior art asserted by the Examiner.

Regarding the patterned film distinction, Figure 6 of Ledger confirms Ledger is concerned with homogenous films wholly unlike the patterned films to which the present invention is directed. At the interview, Applicant presented an example of a patterned film containing numerous detailed features. Applicant explained that the Ledger/ImSpector combination is not suitable for imaging patterned films inasmuch as it lacks the resolution required to image the detailed features involved.

Regarding the distinction based on the two-step procedure, there is nothing in either Ledger or the ImSpector brochure which teaches or suggests this two-step procedure. In fact, Col. 4, lines 45-47 of Ledger confirms that Ledger utilizes a light source which illuminates the "full aperture" of the wafer without the need for a translation mechanism. In avoiding the need for a translation mechanism, Ledger teaches away from this two-step procedure.

Each of these distinctions is amply supported in the specification. The patterned film distinction is supported in the specification at, e.g., the Title and page 1, line 9. The two-step procedure distinction is supported in the specification at, e.g., page 3, lines 3-8.

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Neither of these distinctions are taught or disclosed in the Ledger/ImSpector combination asserted as prior art by the Examiner. Therefore, it is respectfully submitted that each of these claims is patentable over this asserted art.

For all the foregoing reasons, the Examiner is earnestly solicited to allow all claims and pass this application to issuance. Authorization to charge our deposit account for the one-month extension fee is provided in the attached petition for one-month extension. Applicant believes no additional fees are due in connection with this Response. However, if any additional fees are in fact due, the Commissioner is hereby authorized to charge the same to Howrey Deposit Account No. 08-3038, referencing Howrey Dkt. No. 02578.0006.00US00.

Respectfully submitted,

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